

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

CRIMINAL PETITION NO.10953 OF 2018

ORDER:

This petition is filed under Section 482 of Criminal Procedure Code (for short "Cr.P.C.") to quash the order dated 16.08.2018 passed in CrI.R.P.No.46 of 2018 by the Principal Sessions Judge, Nalgonda, whereby the order dated 04.07.2018 passed in CrI.M.P.No.1697 of 2018 in Cr.No.101 of 2018 by the Judicial Magistrate of First Class, Nakrekal was confirmed.

In CrI.M.P.No.1697 of 2018, the Magistrate while granting custody of the tractor declined to grant custody of the trailer on the ground that the petitioner failed to produce registration certificate for the trailer.

Aggrieved by the order, the petitioner filed CrI.R.C.No.46 of 20180 under Section 397 (1) of Cr.P.C. and the revisional Court confirmed the order passed by the Magistrate.

Aggrieved by the same, the present petition is filed on the ground that the petitioner is the owner of the trailer having purchased the same under letter dated 18.05.2018 from the registered owner Peddi Paramesh and he became the owner of the property, but both the Courts erroneously declined to grant interim custody of the trailer in favour of the petitioner and requested to quash the orders passed by both the Courts and grant interim custody of the trailer.

Before the trial Court, the petitioner filed petition under Section 451 of Cr.P.C. for grant of interim custody of the vehicle during pendency of the enquiry or trial.

The order passed by the Magistrate is purely interlocutory in nature, against which no revision lies under Section 397 (2) of Cr.P.C., but the Principal Sessions Judge, Nalgonda without adverting to the bar under Section 397 (2) of Cr.P.C. entertained the petition and passed the impugned order under challenge.

The order of the Sessions Judge is erroneous on the face of the record as revision is not maintainable against the interlocutory order passed by the Magistrate under Section 451 of Cr.P.C. Therefore, on this ground the order passed by the Sessions Judge in Criminal Revision Petition No.46 of 2018 is liable to be set aside.

The petitioner sought for release of the trailer on the ground that he is the owner of the trailer having purchased the under letter dated 18.05.2018, but the ownership was not transferred by registering authority. Still the registered owner of the trailer bearing No.AP 24 AK 2218 is Peddi Paramesh.

As long as the said Peddi Paramesh is continuing as registered owner, the petitioner herein cannot claim ownership though allegedly purchased the same under letter dated 18.05.2018, thereby he is not entitled to claim interim custody of the trailer during pendency of the enquiry or trial under Section 451 of Cr.P.C. At best, the registered owner Peddi Paramesh may approach the Court, if advised, for grant of interim custody being the registered owner and if any application is filed before the Magistrate either under Section 451 or 457 of Cr.P.C., the Magistrate is directed to dispose of the same within one month by strictly adhering to the guidelines

laid down by the Apex Court in “**Sunderbhai Ambalal Desai v. State of Gujarat**¹”.

With the above, the criminal petition is disposed of. No costs.

The miscellaneous petitions pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

12.10.2018
Ksp



¹ 2002 LawSuit (SC) 1346